

IRS INITIATIVE IN CHAPTER 7 CASES

The IRS is offering to Chapter 7 debtors an administrative determination of what taxes the IRS will treat as discharged in their Chapter 7 bankruptcy cases. Upon request by letter, the IRS will provide a debtor, or counsel for the debtor if represented, a written determination of what taxes the debtor owes and which taxes, penalties and interest will, in the IRS's opinion, be discharged. The determination letter will also specify which liabilities are nondischargeable and the reason(s) therefore. The written determination will be provided within 30 days. Since in most cases there is no dispute as to the dischargeability of the tax debts, a debtor will get assurance as to what liabilities have been discharged without the cost of an adversary proceeding.

For discharged taxes, penalties and interest, for which the IRS has a perfected lien filed prior to bankruptcy, the IRS retains its lien on exempt property under Bankruptcy Code § 522 (c)(2)(B) and can enforce its lien by seizure or suit after the stay has been lifted. The IRS will give a debtor who wishes to retain exempt property an opportunity to keep the exempt property by paying the IRS the amount of the equity in the property as of the petition date. The IRS may allow a debtor up to three years to make payment of the equity in the exempt assets. Upon full payment, the IRS will discharge the property from the tax lien.

Requests for administrative determination and/or requests for installment payout for equity exempt assets covered by a tax lien should be sent to Chief, Insolvency Section I, Arkansas-Oklahoma District, 55 N. Robinson, Stop 5024, Oklahoma City, Oklahoma 73102. If you have questions about either program, please call (405) 297-4340.